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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,431	12/14/2001	David W. Presby	PY 1105-ECAP	2347

7590 01/13/2004  
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EXAMINER

HOOK, JAMES F

ART UNIT PAPER NUMBER

3752

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/023,431

Applicant(s)

PRESBY, DAVID W.

Examiner

James F. Hook

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6-9, 11-16 and 19 is/are rejected.
- 7) ☒ Claim(s) 2-5, 10, 17, 18, and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Burelle. The patent to Burelle discloses the recited end cap 3, 3' for a conduit comprising an end piece 12, a circumferential skirt near 10 attached around the end piece, and where the circumferential skirt comprises a plurality of connection tabs 11 spaced circumferentially around the skirt, wherein the tabs have angled faces and there is at least one hole cut in the top of the end piece for receiving a pipe, where figure 7 shows an embodiment without added structure.

Claims 1, 6, 7, 11-14, 16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Unke. The patent to Unke discloses the recited end cap for a conduit comprising an end piece 14 having a rounded convex surface, a circumferential skirt 12 attached around the end piece and formed of the same material as the end piece, specifically metal, where the circumferential skirt comprises a plurality of connection tabs 17 spaced circumferentially around the skirt, wherein the tabs have angled faces and there is at least one hole 19 cut in the top of the end piece which is considered capable of receiving another pipe, flange 15 provides the end piece with a strengthened surface integral thereto, the skirt has integral structure shown as the ribs outside of the

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face 12 in figure 6 which inherently would give the skirt added strength in that area of the tabs, and the strengthening structures are formed of the same material as the rest of the cap structure.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9, and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burelle in view of Flimon. The patent to Burelle discloses all of the recited structure with the exception of forming the ring of the end cap with a plurality of fingers hingedly attached to the ring and protruding toward the center of the opening and forming a strengthened end surface. The patent to Flimon discloses the recited end cap comprising a skirt 2 extending from an end portion 10 which is formed with a thicker portion that would inherently provide more strength to the end surface and a plurality of fingers 12 that hingedly attach to the ring shaped end piece 3 to allow for the receiving of articles into the pipe. It would have been obvious to one skilled in the art to modify the end cap of Burelle by providing a thicker portion to strengthen the end cap, and to provide a ring shaped structure provided with fingers that hingedly attach to the

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ring to protect the inside of the tube as things are inserted into the end of the tube as suggested by Flimon.

***Allowable Subject Matter***

Claims 2-5, 10, 17, 18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed July 11, 2003 have been fully considered but they are not persuasive. With respect to the arguments directed toward Burelle, Burelle as mentioned above in figure 7 discloses a solid end that is provided with a plurality of holes cut therein to receive other pipes. Such is considered the equivalent of applicant's solid end cap with a hole cut into it for other pipes. Since the entire end cap is of solid material it is considered to meet such a limitation. The end cap is provided over the end of a pipe and regardless of whether other structure exists between the end of the cap and the end of the pipe is moot since applicant is using the word "comprising" which allows for the reference to have additional structure. As clarified above since the skirt portion has no actual number in any of the figures, the reference numeral 10 was being used to show approximately where the skirt was depicted, and such is set forth more clearly above as the area around numeral 10. The so called "projections" provided in the arguments are considered the structural equivalent of the broad term "tabs" provided in the claim, and such are provided to lock with the pipe end to hold the cap in place. Applicant is claiming a method step in an apparatus claim in claim 7 and

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such does not further limit the claim other than stating that a hole is provided in the end of the cap, and structurally the same is true of Burrelle, where the hole can be provided at any time as long as the cap is provided with a hole that can accept another pipe. Essentially, many of the arguments are far more specific than the broad claim language found in the claims rejected under Burrelle. With respect to Unke, it is noted that no where is the cap required to block against flow, therefore such an argument is more detailed than the claim language supports. The perimeter edge of the top portion of Unke which overlies the end of the wall of the pipe is seen to be convex away from the pipe creating a pocket for the pipe end to be received in, this meets the claimed structure which does not require the entire end piece to be convex, and once the hole is provided the only part that would be left to be convex would be in the same location as the convex portion shown in Unke. Unke also shows a center hole which is not numbered, and therefore the examiner used the number 19 to depict that holes exist in the end of the cap, and any of the holes are capable of accepting a pipe, where it is noted that no limitation is present that the connection be leak proof. With respect to the connection tabs not being formed to allow "swinging" such is more detailed than the claim language, and therefore not a persuasive argument. With respect to the addition of the teachings of Hodge such are moot in view of that rejection being dropped. With respect to the teachings of Flimon, the claims do not require that the cap cover the entire opening of the conduit, therefore such arguments are not persuasive. The fingers taught by Flimon would inherently bend if a pipe were inserted into the hole which meets the teachings of the claims regardless of whether or not that was the purpose the

fingers were provided, noting that Flimon teaches providing the hole in and end cap with fingers to protect the end of the pipe when things are inserted therein, Burelle teaches that the hole has a pipe disposed therein.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

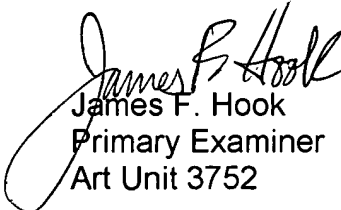
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (703) 308-2913. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

  
James F. Hook  
Primary Examiner  
Art Unit 3752

JFH